

REMARKS AND ARGUMENTS

Reconsideration of the application is respectfully requested in view of this Amendment and the following remarks:

This Amendment amends claims 33-34, 37-38, and 40-41; adds claims 64-72; and cancels claim 62. Claims 33-41 and 64-72 are pending in this application.

Applicant respectfully asserts that claims 37-39 and 41 have not been withdrawn due to the restriction election of December 11, 2006 due to their direct dependence on claim 33, which is an elected and pending claim in the instant application. Claim 37 has been amended to eliminate reference to withdrawn claim 1 in order to solidify its direct dependence on claim 33. As a result, Applicant respectfully requests the Examiner reinstate claims 37-39 and 41, as amended, for examination.

Claim 33 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,620,117 to Johnson et al. Claim 33 has been amended to include the further limitation of cycloidal mechanical vibrations with components in three orthogonal directions. Johnson does not disclose the new claim limitation of vibration having components in three orthogonal directions required by claim 33 as amended.

Claims 33-36, 40 and 62 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,853,121 to Mizrachy et al. in view of Pickup, Alexander, Gosling ("The effect of cycloid vibration on leg blood flow and ulcer pain", July 1978). Claim 62 has been canceled and is no longer pending in the present application. Claim 33 has been amended to include the further limitation of cycloidal mechanical vibrations with components in three orthogonal directions. Neither Pickup nor Mizrachy disclose

the application of vibration having components in three orthogonal directions. More importantly, the prior art identified by the Examiner does not demonstrate an ability to apply the cycloidal vibration in three orthogonal directions; accordingly this limitation to claim 33 is not taught.

Dependent claims 34-36 and 40 depend directly from, and contain all the limitations of claim 33 as amended. Therefore, dependent claims 34-36 and 40 are also patentably distinct from the cited references for the reasons stated above with respect to claim 33.

New claims 64-72 have been added to the instant application and do not contain matter foreign to the original application as filed on August 18, 2003. The prior art does not disclose the concurrent combination of cycloidal vibration and pressure application to the same area. Applicant notes Mizrachy shows a strap 21 affixing the vibration generator 20 to a limb of a person; however, Mizrachy does not teach the application of pressure to the affected area in combination with cyclodial vibration. Even if Mizrachy can be interpreted to show the teaching of pressure application, the pressure application of the strap 21 in conjunction with the vibration generator 20 is utilized in an area distinct from the body area being treated, such area encompassed by the pad 11 and flaps 13 and 14 of Mizrachy.

Applicant respectfully submits that claims 33-41 as amended herein are allowable over the prior art cited by the Examiner. Accordingly, Applicant requests that the rejections of claims 33-36, and 40, and the withdrawal of claims 37-39 and 41 be withdrawn and that the claims be allowed as amended. Applicant further requests that newly entered claims 64-72 be allowed as presented.

CONCLUSION

Applicant has made an earnest attempt to place this application in condition for allowance. For the reasons stated above, and for other reasons clearly apparent, Applicant respectfully requests full allowance of the remaining claims as amended as well as the newly presented claims 64-72. Reconsideration of this application in view of this Amendment and Response is therefore requested.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 11-0307

Respectfully submitted,

/Melissa M. Martinez/
Registration No. 56,568

Keeling Patents and Trademarks
3310 Katy Freeway, Suite 100
Houston, Texas 77007
(713) 579-3001
(713) 579-3002 Fax